

“(B) the date on which the Secretary determines that—

“(i) the number of the total bus revenue vehicle-miles operated in or directly serving the area is greater than or equal to 900,000; and

“(ii) the number of buses operated in or directly serving the area exceeds 15.

“(3) SERVICES FOR ELDERLY AND PERSONS WITH DISABILITIES.—In addition to assistance made available under paragraph (1), the Secretary may provide assistance under section 5307 of title 49, United States Code, to a transit provider that operates 20 or fewer vehicles in an urbanized area with a population of at least 200,000 to finance the operating costs of equipment and facilities used by the transit provider in providing mass transportation services to elderly and persons with disabilities, provided that such assistance to all entities shall not exceed \$1,444,000 annually.”

§ 5308. Clean fuels grant program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) CLEAN FUEL BUS.—The term “clean fuel bus” means a passenger vehicle used to provide public transportation that—

(A) is powered by—

- (i) compressed natural gas;
- (ii) liquefied natural gas;
- (iii) biodiesel fuels;
- (iv) batteries;
- (v) alcohol-based fuels;
- (vi) hybrid electric;
- (vii) fuel cell;
- (viii) clean diesel, to the extent allowed under this section; or
- (ix) other low or zero emissions technology; and

(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.

(2) ELIGIBLE PROJECT.—The term “eligible project”—

(A) means a project in a nonattainment or maintenance area described in paragraph (4)(A) for—

- (i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;
- (ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment for such buses; or
- (iii) constructing new or improving existing public transportation facilities to accommodate clean fuel buses; and

(B) at the discretion of the Secretary, may include a project located in a nonattainment or maintenance area described in paragraph (4)(A) relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

(3) MAINTENANCE AREA.—The term “maintenance area” has the meaning such term has under section 101 of title 23.

(4) RECIPIENT.—

(A) IN GENERAL.—The term “recipient” means a designated recipient (as defined in section 5307(a)(2)) for an area that, and a recipient for an urbanized area with a population of less than 200,000 that—

(i) is designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(ii) is a maintenance area for ozone or carbon monoxide.

(B) SMALLER URBANIZED AREAS.—In the case of an urbanized area with a population of less than 200,000, the State in which the area is located shall act as the recipient for the area under this section.

(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to recipients to finance eligible projects.

(c) CLEAN DIESEL BUSES.—Not more than 25 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

(2) GOVERNMENT’S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to projects carried out under this section.

(e) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

(1) shall remain available to a project for 2 years after the fiscal year for which the amount is made available or appropriated; and

(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 800; Pub. L. 105–178, title III, §3008(a), (c), June 9, 1998, 112 Stat. 348; Pub. L. 105–206, title IX, §9009(f), July 22, 1998, 112 Stat. 855; Pub. L. 109–59, title III, §3010(a), Aug. 10, 2005, 119 Stat. 1572.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5308(a)	49 App.:1607a–2(b) (words before “and shall be subject to”).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9B(a), (b); added Apr. 2, 1987, Pub. L. 100–17, §313, 101 Stat. 229.
5308(b)(1)	49 App.:1607a–2(a).	
5308(b)(2)	49 App.:1607a–2(b) (words after “maintenance items”).	

In subsection (a), the words “The Secretary of Transportation may make” are added for clarity and consistency in this chapter. The words “the purpose of” are omitted as surplus.

In subsection (b)(1), the cross-reference to 49 App.:1617(b) and (c) is corrected because it no longer is correct because of the restatement of 49 App.:1617 by section 3025 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2112), restated as section 5338 of the revised title.

In subsection (b)(2), the words “the limitations contained in” and “applicable to such projects” are omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59 substituted “grant program” for “formula grant program” in section catchline and amended text generally. Prior to amendment, text con-

sisted of subsecs. (a) to (g) relating to definitions, authority of Secretary, application for grants, apportionment of funds, additional requirements, and availability of funds.

1998—Pub. L. 105-178, § 3008(a), amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to be used only for capital projects (including capital maintenance items).

“(b) APPLICATION OF OTHER SECTIONS.—(1) Sections 5307(a)–(d), (h)–(l), and (n) and 5336(a)–(c), (f), (g), and (j) of this title apply to amounts made available under section 5338(a) of this title to carry out this section.

“(2) Sections 5307(e) and 5336(d) of this title apply to grants under this section.”

Subsec. (e)(2). Pub. L. 105-178, § 3008(c), as added by Pub. L. 105-206, substituted “35 percent” for “\$50,000,000”.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM

Pub. L. 109-59, title III, § 3045, Aug. 10, 2005, 119 Stat. 1705, provided that:

“(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a national fuel cell bus technology development program (in this section referred to as the ‘program’) to facilitate the development of commercially viable fuel cell bus technology and related infrastructure.

“(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 3 geographically diverse nonprofit organizations and recipients under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.

“(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant’s—

“(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit bus operations, including hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;

“(2) financing plan and cost share potential;

“(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liquid-fueled fuel cell technologies, that may be viable for public transportation systems; and

“(4) other criteria that the Secretary determines are necessary to carry out the program.

“(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 5 years.

“(e) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

“(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

“(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and

“(2) such other terms and conditions as are determined by the Secretary.”

CLEAN FUEL VEHICLES

Pub. L. 105-178, title III, § 3036, June 9, 1998, 112 Stat. 387, provided that:

“(a) STUDY.—The Comptroller General shall conduct a study of the various low and zero emission fuel technologies for transit vehicles, including compressed natural gas, liquefied natural gas, biodiesel fuel, battery, alcohol based fuel, hybrid electric, fuel cell, and clean diesel to determine—

“(1) the status of the development and use of such technologies;

“(2) the environmental benefits of such technologies under the Clean Air Act [42 U.S.C. 7401 et seq.]; and

“(3) the cost of such technologies and any associated equipment.

“(b) REPORT.—Not later than January 1, 2000, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study, together with recommendations for incentives to encourage the use of low and zero emission fuel technology for transit vehicles.”

§ 5309. Capital investment grants

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ALTERNATIVES ANALYSIS.—The term “alternatives analysis” means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

(A) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

(B) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

(C) the selection of a locally preferred alternative; and

(D) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.

(2) MAJOR NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term “major new fixed guideway capital project” means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is \$75,000,000 or more.

(3) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term “new fixed guideway capital project” means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation, for fixed